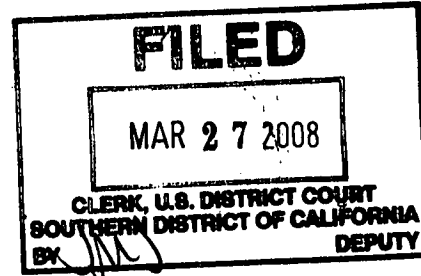


1 KAREN P. HEWITT
 United States Attorney
 2 STEWART M. YOUNG
 Assistant United States Attorney
 3 California State Bar No. 234889
 United States Attorney's Office
 4 Federal Office Building
 880 Front Street, Room 6293
 5 San Diego, California 92101
 Telephone: (619) 557-6229
 6 Attorneys for Plaintiff
 7 UNITED STATES OF AMERICA



8 UNITED STATES DISTRICT COURT
 9 SOUTHERN DISTRICT OF CALIFORNIA

10 UNITED STATES OF AMERICA,)
 11)
 Plaintiff,)

12 v.)

13 JOSE VILLAREAL-RAMOS (1),)
 14)
 Defendant.)

Case No. 08-CR-95 BEN

**STIPULATION OF FACT AND JOINT
 MOTION FOR RELEASE OF
 MATERIAL WITNESS(ES) AND
 ORDER THEREON**

16 **IT IS HEREBY STIPULATED AND AGREED** between the plaintiff, UNITED STATES
 17 OF AMERICA, by and through its counsel, Karen P. Hewitt, United States Attorney, and Stewart
 18 M. Young, Assistant United States Attorney, and defendant JOSE VILLAREAL-RAMOS, by and
 19 through and with the advice and consent of defense counsel, Leila Morgan, Esq., that:

20 1. Defendant agrees to execute this stipulation on or before (a) a material witness
 21 deposition is held and further agrees to participate in a full and complete inquiry by the Court into
 22 whether defendant knowingly, intelligently and voluntarily entered into the stipulation. Defendant
 23 further agrees to plead guilty to count 8 of the Indictment charging defendant with Transportation
 24 of Aliens, in violation of 8 U.S.C. § 1324(a)(1)(A)(ii) and (v)(II).

25 2. Defendant acknowledges receipt of a plea agreement in this case and agrees to
 26 provide the signed, original plea agreement to the Government before or on the disposition date set
 27 by the Court.

28 3. Defendant agrees to plead guilty to the charge pursuant to the plea agreement on or

1 before March 30, 2008.

2 4. The material witnesses in this case, Fernando Hernandez-Vasquez, Jose Francisco
3 Sanchez-Rubi, Hector Guzman-Garcia, Mirta Lolanda Luna-Portillo, Jaime Antonio Preciado-
4 Garcia, :

5 a. Are aliens with no lawful right to enter or remain in the United States;

6 b. Entered or attempted to enter the United States illegally on or about December
7 12, 2007 or December 21, 2007;

8 c. Were found in the presence of a footguide, defendant JOSE VILLAREAL-
9 RAMOS, or in a vehicle driven by co-defendant Sergio Preciado-Garcia, or in a house and harbored
10 by caretaker co-defendant Concepcion Garcia-Orozco, who knew or acted in reckless disregard of
11 the fact that they were aliens with no lawful right to enter or remain in the United States;

12 d. Were paying or having others pay on their behalf, to defendant or others, to
13 be brought into the United States illegally and/or transported illegally to their destination therein;
14 and,

15 e. May be released and remanded immediately to the Department of Homeland
16 Security for return to their country of origin.

17 5. After the material witnesses are ordered released by the Court pursuant to this
18 stipulation and joint motion, if defendant does not plead guilty to the charge set forth above, for any
19 reason, or thereafter withdraws his guilty plea to that charge, defendant agrees that in any proceeding,
20 including, but not limited to, motion hearings, trial, sentencing, appeal or collateral attack, that:

21 a. The stipulated facts set forth in paragraph 4 above shall be admitted as
22 substantive evidence;

23 b. The United States may elicit hearsay testimony from arresting agents
24 regarding any statements made by the material witness(es) provided in discovery, and such testimony
25 shall be admitted as substantive evidence under Fed. R. Evid. 804(b)(3) as statements against interest
26 of (an) unavailable witness(es); and,

27 c. Understanding that under Crawford v. Washington, 124 S. Ct. 1354 (2004),

28 Stipulation of Fact and Joint Motion for Release of
Material Witness(es) And Order Thereon in
United States v. Villareal-Ramos

1 "testimonial: hearsay statements are not admissible against a defendant unless defendant confronted
 2 and cross-examined the witness(es) who made the "testimonial" hearsay statements, defendant
 3 waives the right to confront and cross-examine the material witness(es) in this case.

4 6. By signing this stipulation and joint motion, defendant certifies that defendant has
 5 read it (or that it has been read to defendant in defendant's native language). Defendant certifies
 6 further that defendant has discussed the terms of this stipulation and joint motion with defense
 7 counsel and fully understands its meaning and effect.

8 Based on the foregoing, the parties jointly move the stipulation into evidence and for the
 9 immediate release and remand of the above-named material witness(es) to the Department of
 10 Homeland Security for return to their country of origin.

11
 12 It is STIPULATED AND AGREED this date.

13 Respectfully submitted,

14 KAREN P. HEWITT
 15 United States Attorney

16 Dated: 3/28/08

17 STEWART M. YOUNG
 18 Assistant United States Attorney

19 Dated: 3/27/2008

20 LEILA MORGAN, ESQ.
 21 Defense Counsel for JOSE VILLAREAL-RAMOS

22 Dated: 3/27/2008

23 Jose Eduardo V.R.
 24 JOSE VILLAREAL-RAMOS
 25 Defendant

ORDER

Upon joint application and motion of the parties, and for good cause shown,

THE STIPULATION is admitted into evidence, and,

IT IS ORDERED that the above-named material witness(es) be released and remanded forthwith to the Department of Homeland Security for return to their country of origin.

SO ORDERED.

Dated: 5/27/08.



United States Magistrate Judge